
From: Gray, Sammy L <sgray2@firstenergycorp.com>
Sent: Tuesday, July 23, 2019 8:16 AM
To: Craig Blair; Gil White
Subject: RE: Special Session Tax Breaks

Mr. Chairman,

Below are answers to questions 1-4. Please do not hesitate to let me know if you have further questions or would like to discuss the matter in more detail.

1) Ask for a fiscal note to determine how much this would actually cost the state treasury. How much could this same money produce if invested in fixing the roads or higher education or health care? **Answer: By relieving the unfair tax burden on Pleasants, the legislature will be saving \$400 million per year of economic impact to the West Virginia economy including 160 full-time high-paying jobs at the plant, production of nearly 10% of the power in West Virginia and the consumption of 3-3.5 million tons per year of coal. The benefits of this economic activity surpass the \$12.5 million per year the state theoretically could collect IF Pleasants were to remain open & the B&O Tax were to remain. However, without tax relief Pleasants will close and with that the \$400 million per year of economic benefits and B&O tax payments will cease.**

2) Ask for input from staff of the PSC, to explain why they did not ask the ratepayers to subsidize Pleasants. **Pleasants is an unregulated power plant and is not subject to rate regulation. This is not an option.**

3) Make sure that, if adopted, the bill is crafted narrowly so that it is not a blank check to every merchant power plant in West Virginia. **Pleasants is the only merchant power plant in W VA that is subject to the B&O Tax. Other merchant plants in W VA have entered into PILOT agreements and as a result are not subject to the B&O Tax.**

4) Include a requirement that, to qualify for the tax break, the plant would stay open for at least five years, and that the B&O taxes would have to be paid back if it closes before then. I fear that this out-of-state company will take the tax break, then close the plant anyway. **The B&O Tax unfairly targets Pleasants and other merchant plants are not subject to the B&O Tax. This proposal would do the opposite of the intent of the proposed legislative relief which is to level the playing field.**

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From: Craig Blair <Craig.Blair@wvsenate.gov>
Sent: Monday, July 22, 2019 10:09 PM
To: Gil White <gil.white@steptoe-johnson.com>; Gray, Sammy L <sgray2@firstenergycorp.com>
Subject: [EXTERNAL] Fwd: Special Session Tax Breaks

Here's that email. I would suggest sending me the responses for questions 1-4. Thank you

Sent from Craig P Blair's iPhone

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Begin forwarded message:

From: James Kotcon <jkotcon@gmail.com>
Date: July 21, 2019 at 2:27:10 PM EDT
To: undisclosed-recipients;;
Subject: Fwd: Special Session Tax Breaks

Late Friday, Governor Justice amended the call for the Special Session to include a bill to exempt "certain merchant power plants" from Business and Occupation taxes.

<https://governor.wv.gov/Documents/2019%20Proclamations/2019-Special-Session-5th-Amendment-Pleasants-Power-Station.pdf>

The Governor's press release indicates that this bill is targeted to save the Pleasants power plant, which is no longer competitive and faces closure:

<https://governor.wv.gov/News/press-releases/2019/Pages/Gov.-Justice-amends-special-session-call;-adds-bill-to-save-Pleasants-Power-Station.aspx>

No language for the bill is yet available, but I am concerned for several reasons.

First, the Pleasants power plant is actually owned by an Ohio utility (Allegheny Energy Services) so a tax break would benefit an out-of-state company at the expense of WV state revenues.

Second, while the Governor indicates that this would save mining jobs, it is my understanding that most of the coal burned at Pleasants comes from out of state.

Third, the WV Public Service Commission faced a case last year when Mon Power proposed to purchase this plant, claiming it would save ratepayers money. But when the PSC made those claimed savings for ratepayers a condition of

the sale, Mon Power said they were not interested. It is clear that Mon Power and their parent company, FirstEnergy, were really hoping to saddle West Virginia ratepayers with an uneconomic plant. It certainly makes no sense to raid the taxpayers to bail out the same plant.

Fourth, nothing in the Governor's call restricts the tax bailout to the Pleasants plant. It refers to "certain merchant power plants, but it seems likely the same tax breaks could go to Longview (which claims to already be profitable) as well as proposed new gas fired power plants such as the Harrison County, Moundsville or Brooke County plants.

Fifth, there is no guarantee that the Pleasants plant would not close anyway. While a reduction in B&O taxes would probably keep them afloat a little longer, the market trend is inevitable. Coal is no longer the low cost supplier. It has not been for several years, and competition from gas and renewables will get stiffer, even without addressing the environmental impacts from coal.

I urge that you take the following steps when considering this bill:

- 1) Ask for a fiscal note to determine how much this would actually cost the state treasury. How much could this same money produce if invested in fixing the roads or higher education or health care?
- 2) Ask for input from staff of the PSC, to explain why they did not ask the ratepayers to subsidize Pleasants.
- 3) Make sure that, if adopted, the bill is crafted narrowly so that it is not a blank check to every merchant power plant in West Virginia.
- 4) Include a requirement that, to qualify for the tax break, the plant would stay open for at least five years, and that the B&O taxes would have to be paid back if it closes before then. I fear that this out-of-state company will take the tax break, then close the plant anyway.
- 5) Include a requirement that, to qualify for the tax breaks, the company invest in economic development, economic diversification, and job creation for the local community. LEAVING THE LOCAL COMMUNITY AND WORKERS CONTINUALLY DEPENDENT ON THE SAME COMPANY IS A PRESCRIPTION FOR CONTINUING VULNERABILITY.
- 6) Include a requirement that, to qualify for the tax break, the company invest in energy efficiency programs for West Virginia businesses and residents. First Energy no longer offers any such programs for West Virginia, although American Electric Power does. Such tax breaks should come with an investment to benefit West Virginians, not just an out-of-state company.

I have been heavily involved in efforts around the Pleasants power plant for years. I do not support tax breaks for fossil fuels, but if you are going to do it, please put in the appropriate safeguards listed above. Please let me know if I can provide details.

Jim Kotcon
WV Sierra Club

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